

MDR Tracking Number: M5-04-1767-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 02-18-04.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that the therapeutic exercises rendered from 7/24/03 through 7/28/03 **were found** to be medically necessary. The therapeutic exercises from 7/30/03 through 9/10/03, and the myofascial release, office visit, and unlisted procedure rendered from 7/24/03 through 9/09/03 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On May 24, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

**CPT Codes 97113** for date of service 6/16/03 was denied by the carrier with D-duplicate bill. Review of the HCFA shows it was marked "request for reconsideration" in accordance with rule 133.304. Therefore, reimbursement is recommended in the amount of \$52.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 7/09/03 through 7/23/03 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 7<sup>th</sup> day of October 2004.

Regina L. Cleave  
Medical Dispute Resolution Officer  
Medical Review Division

May 17, 2004

Rosalinda Lopez  
Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

**REVISED REPORT**  
**Corrected dates of service in dispute.**

Re: Medical Dispute Resolution  
MDR #: M5-04-1767-01  
IRO Certificate No.: 5055

Dear Ms. Lopez:

\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of \_\_\_ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in the area of Physical Medicine & Rehabilitation and is currently on the TWCC Approved Doctor List.

**REVIEWER'S REPORT**

**Information Provided for Review:**

TWCC-60, Table of Disputed Services, EOB's  
Letter of medical necessity (undated) and treating doctor's notes 03/13/03 thru 02/27/04.  
Psychiatric evaluation 01/14/03  
Orthopedic note 12/26/02  
Physical therapy notes 06/10/03 thru 09/25/03  
Operative report & discharge summary 02/05/03, operative reports 4/16/03 & 05/13/03

**Clinical History:**

This is a 44-year-old gentleman status post 5/13/03 lower lumbar redo decompression and a new TLIF of the L5-S1 level for an injury sustained on \_\_\_\_\_. He has ongoing chronic lower back and, to a lesser extent, right lower extremity pain and numbness. Objective neurological exam is normal.

**Disputed Services:**

Aquatic therapy, therapeutic exercises, myofascial release, level III office visit, and unlisted modality during the period of 07/24/03 through 09/10/03.

**Decision:**

The reviewer partially agrees with the determination of the insurance carrier. Myofascial release was not medically necessary. All other disputed services and therapy in dispute as stated above were medically necessary during the period of 07/24/03 through 07/28/03, but were not medically necessary beyond this six-week period ending 07/28/03.

**Rationale:**

As far as the aquatic therapy, therapeutic exercises, level 3 office visit, and unlisted modality, this can be performed for 6 weeks total. After which time, a home program is sufficient. This is supported in the Physical Medicine & Rehab literature, as is the argument against myofascial release. (See The Quebec Task Force and supplements to Spine.)

Sincerely,